

## AGENDA BILL APPROVAL FORM

<b>Agenda Subject:</b> Resolution No. 4439 authorizing Amendment No. 2 to Agreement AG-C-347 with ICF Jones & Stokes Associates, Inc. for professional planning services.		<b>Date:</b> 1/13/2009
<b>Department:</b> Planning, Building and Community	<b>Attachments:</b> 1. Resolution No. 4439 and AG-C-347, Amendment 2 2. AG-C-347 Amendment 1 3. Agreement No. AG-C-347	<b>Budget Impact:</b> None (cost of Agreement less than budget of first project contract)
<b>Administrative Recommendation:</b> City Council adopt Resolution No. 4439.		
<b>Background Summary:</b>  <p>On September 2, 2008, the City executed Agreement No. AG-C-338 in the amount of \$175,000 with BHC Consultants, LLC to assist with the review and update of the City's development code. On November 12, 2008, the City terminated Agreement AG-C-338 with BHC Consultants.</p> <p>On November 24, 2008, the City executed Agreement AG-C-347 in the amount of \$24,870 with ICF Jones and Stokes Associates (one of the other qualified consultants who responded to the original RFP for the project in 2007) to provide interim planning services to allow work to continue on the first of two project phases while the City and the consultant developed a more comprehensive contract to address work required for completion of both phases of the project. On December 28, 2008, AG-C-347 Amendment No. 1 extended the term of the agreement to February 15, 2009. The proposed amendment extends the term of Agreement AG-C-347 to October 15, 2009, increases the total contract amount to \$126,991, and provides a detailed scope, budget, and schedule to address required planning support for the remainder of the Project. The total contract amount is less than the original contract amount that the City Council approved for the agreement with BHC Consultants, LLC.</p>		
<div style="display: flex; justify-content: space-between;"> <span>L0120-1</span> <span>A3.16.7</span> </div>		
<b>Reviewed by Council &amp; Committees:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Arts Commission  <input type="checkbox"/> Airport  <input type="checkbox"/> Hearing Examiner  <input type="checkbox"/> Human Services  <input type="checkbox"/> Park Board  <input type="checkbox"/> Planning Comm.         </div> <div style="width: 45%;"> <b>COUNCIL COMMITTEES:</b>  <input type="checkbox"/> Finance  <input type="checkbox"/> Municipal Serv.  <input checked="" type="checkbox"/> Planning &amp; CD  <input checked="" type="checkbox"/> Public Works  <input type="checkbox"/> Other         </div> </div>		<b>Reviewed by Departments &amp; Divisions:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Building  <input type="checkbox"/> Cemetery  <input type="checkbox"/> Finance  <input type="checkbox"/> Fire  <input checked="" type="checkbox"/> Legal  <input type="checkbox"/> Public Works  <input type="checkbox"/> Information Services         </div> <div style="width: 45%;"> <input type="checkbox"/> M&amp;O  <input type="checkbox"/> Mayor  <input type="checkbox"/> Parks  <input checked="" type="checkbox"/> Planning  <input type="checkbox"/> Police  <input type="checkbox"/> Human Resources         </div> </div>
<b>Action:</b> Committee Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Council Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No      Call for Public Hearing ____/____/____ Referred to _____ Until ____/____/____ Tabled _____ Until ____/____/____		
<b>Councilmember:</b> Norman		<b>Staff:</b> Baker
<b>Meeting Date:</b> January 20, 2009		<b>Item Number:</b> VIII.B.2

**RESOLUTION NO. 4 4 3 9**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO AGREEMENT AG-C-347 WITH ICF JONES & STOKES, INC. TO ASSIST THE CITY IN UPDATING THE CITY'S DEVELOPMENT CODES

WHEREAS, the City of Auburn zoning, subdivision and other related codes and associated design standards are in need of a comprehensive review; and

WHEREAS, incremental amendments made over the years have made it increasingly difficult for City staff and the public to easily and efficiently utilize the existing development codes; and

WHEREAS, an update of the City's development regulations will further the City's objective to improve the permit process; and

WHEREAS, the City Council has determined that a comprehensive code review and update effort is required; and

WHEREAS, the City has previously executed professional services agreement AG-C-347 with ICF Jones & Stokes Associates, Inc for short-term professional planning services to assist the City with the code review and update effort; and

WHEREAS, the consultant's provision of additional services desired by the City to complete the code update project requires amendment of the existing agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,  
WASHINGTON, HEREBY RESOLVES AS FOLLOWS.

**Section 1.** The Mayor and the City Clerk of the City of Auburn are hereby authorized to execute Amendment No. 2 to Agreement AG-C-347 for Professional Services with ICF JONES & STOKES ASSOCIATES, INC. for the purpose of updating the City's development codes, which amendment shall be in substantial conformity with the Agreement a copy of which is attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

**Section 2.** The Mayor is hereby authorized to implement administrative procedures as may be necessary to carry out the directives of this legislation.

**Section 3.** This Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF AUBURN

\_\_\_\_\_  
PETER B. LEWIS  
MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

**AMENDMENT #2 TO AGREEMENT NO. AG-C-347 BETWEEN  
THE CITY OF AUBURN AND ICF JONES & STOKES ASSOCIATES, INC.  
RELATING TO THE AUBURN CODE UPDATE PROJECT**

**THIS AMENDMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between the CITY OF AUBURN, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and ICF JONES & STOKES ASSOCIATES, INC. (hereinafter referred to as the "CONSULTANT"), as an Amendment to the Agreement between the parties for AG-C-347 executed on the 24<sup>th</sup> day of November 2008, and amended by agreement dated the 29th day of December 2008.

The changes to the agreement are described as follows:

1. **CONTRACT TERM:** The term of the Agreement for Professional Services is extended to October 15, 2009.
2. **SCOPE OF WORK:** The scope of work is amended to include the tasks described in Exhibit A1, which is attached hereto and by this reference made part of this Amendment.
3. **COMPENSATION:** The amount of this amendment is \$102,251. The total contract amount is increased to a total of \$126,991. Costs will be based on Exhibit A to the original agreement and Exhibit B, which is attached hereto and by this reference made part of this Amendment.

**REMAINING TERMS UNCHANGED:** That all other provisions of the Agreement between the parties for AG-C-347 executed on the 24th day of November 2008 shall remain unchanged, and in full force and effect.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the day and year first above written.

**ICF JONES & STOKES ASSOCIATES, INC.**

**CITY OF AUBURN**

By: \_\_\_\_\_  
Authorized signature

\_\_\_\_\_  
Peter B. Lewis, Mayor

ATTEST (Optional):

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Approved as to form (Optional):

\_\_\_\_\_  
Attorney for (Other Party)

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, Auburn City Clerk

Approved as to form:

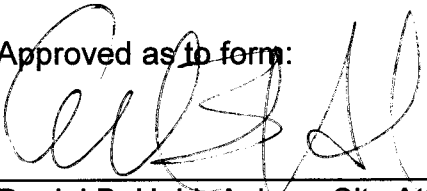
  
\_\_\_\_\_  
Daniel B. Heid, Auburn City Attorney

Exhibit A1  
Scope of Work

## SCOPE OF WORK

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# Auburn Development Code Update

This scope of work covers a contract amendment that, in conjunction with the initial Auburn Development Code Update contract, is intended to cover the all consultant work on Phase I Residential and Subdivision Code Amendment update and Phase II Nonresidential and Process Code Amendment update. This scope of work covers anticipated level of effort for assisting city staff in updating the City's Zoning Code (Title 18) and associated development regulations. Since many of the issues, particularly related to Phase 2 non-residential code updates are not specifically known at this time, this scope of work is based on a series of assumptions about this project described in the "Overall Assumptions" section below. In addition, time and effort estimates are conservative, assuming a primary level of effort by consultant staff. This level of effort may be reduced in a number of ways, including increased city staff roles, revisions to the assumptions about the tasks, increased operating efficiencies, such as use of conference calls instead of in-person meetings, and other measures.

### **Overall Assumptions:**

- Consultant staff will prepare research and analysis, draft code sections, and revisions requested based upon city staff, advisory body, public, and Council review to the level of budgeted hours.
- All meetings except weekly project management meetings will be held in-person at Auburn City Hall. ReadyConference conference call system will be utilized for those unable to attend the meetings in person.
- Weekly project management meetings will be held via ReadyConference conference call.
- Budget may be transferred between tasks based upon consultant judgment and prior agreement with city staff, so long as all tasks are completed to the client's satisfaction and the overall project budget is not exceeded.
- If levels of effort are identified which exceed the anticipated budget and scope of work, then the consultant and city staff will work together to find solutions for continuation of project work with as little disruption to schedule as possible, including but not limited to transferring some remaining responsibilities from consultant staff to city staff, seeking budget amendment, or other measures to be mutually agreed upon.
- The consultant retains the discretion and internal flexibility to assign appropriate consultant staff in order to meet scheduled deadlines, so long as the budget is not exceeded. City staff will be consulted prior additional consultant staff being added to the project.

- Consultant will provide deliverables in an electronic format unless otherwise agreed upon by city staff and consultant. City is responsible for reproduction and distribution.

## Task 1. Research and Analysis

ICF Jones & Stokes (Consultant) will research development code update issues by examining data already collected by the City, the development codes of other Washington State jurisdictions, examining professional literature on the subjects that are readily available from the American Planning Association and similar professional sources, other Internet research, and limited follow-up conversations with planning staff at local jurisdictions and other entities related to identified issue areas with local government contacts occurring after notification to Auburn city staff.

City will provide a priority-order list of topics to be researched. For cost estimating purposes, Consultant has assumed 242 hours of research and analysis. Upon receipt of the City's list of topics, Consultant will review and advise the City of the estimated hours needed to complete the analysis. If additional hours beyond those assumed in the cost estimate are required, the City and Consultant shall jointly determine how/whether to adjust budget or tasks.

### **Assumptions:**

- This task assumes that up to 2 memos or issue papers will be developed for each identified issue – one consisting of a background review of an issue and some potential options; and a second memo that identifies preliminary recommendations or further analysis that will help with drafting the code.
- To the extent possible, this task will draw upon relevant materials previously prepared for this project.

### **Deliverables:**

- Up to 11 research topics requiring 22 memos or issue papers related to various development code update issues.

## Task 2. Code Drafting/Preparation

Consultant shall prepare drafts of code sections, and/or reformatting and revising existing code sections in a new proposed format for the Auburn Zoning Code. This task assumes adherence to a single format for review and analysis of draft code sections.

**Assumptions:**

- For budget purposes, consultant has assumed there will be 3 drafts of code sections: an initial draft for city staff review, a draft responding to staff-level edit that is presented to Council and advisory committees, and a draft that responds to public and City Council review comments. If time is available from other tasks, resources may be shifted as described in general assumptions of this scope.
- Drafts of code will be prepared in a mutually agreed upon and consistent format for review purposes.
- Code drafting in Task 2 will be based upon the findings from memos and issue papers in Task 1.
- To the extent possible, city staff and citizen advisory group comments related to code drafts will be consolidated by city staff for ease of incorporation.

**Deliverables:**

- For budgeting purposes, this scope assumes up to 3 drafts of each section of newly revised Auburn City Code Zoning Chapter (Title 18) along with necessary edits and cross-references to other sections of City Code based upon recommended changes.

## Task 3. Regulatory Review Assistance

In accordance with statutory requirements, the City is required to follow the procedural requirements of the State Environmental Policy Act (SEPA) and the Growth Management Act. Since this project contemplates changing development regulations, which do not constitute a site specific project, state SEPA rules provide for a nonproject SEPA review to be conducted. In addition, the Growth Management Act requires that cities submit any proposed development regulation amendments to the State Department of Community Trade and Economic Development (CTED) and other state agencies for a 60-day review and comment period, during which the City may not act upon a proposal.

The consultant will assist City with preparing a nonproject SEPA checklist and a lead agency threshold determination form as well as a CTED 60-day review packet for a draft recommended Auburn Development Code Update. Task 3 also includes a level of effort estimate for responding to any comments arising from the CTED 60-day review.

**Assumptions:**

- This Task assumes two nonproject SEPA checklists and forms (one for Phase 1 and one for Phase 2) be developed.



- This Task assumes two 60-day review packets will be prepared (one for Phase 1 and one for Phase 2).
- This Task assumes 2 draft responses to CTED comments (one per phase).
- Each deliverable assumes one round of city staff review comments.

**Deliverables:**

- Up to 2 Nonproject SEPA checklist and SEPA determinations
- Up to 2 60-day review packets
- Up to 2 responses to 60-day review comments

## Task 4. Public Involvement Assistance

Consultant shall support City with public involvement assistance. This task includes consultant staff preparation for and attendance at one Code Working Group meeting per month from January through August; up to three public open houses or other public outreach events; and assistance with preparation of informational materials for use and distribution in public involvements efforts through phase 1 and 2 of the project.

**Assumptions:**

- Preparation and attendance at up to 8 Code Working Group meetings by one consultant staff member.
- Preparation for and attendance at up to 3 public open house or other public outreach meetings by up to two consultant staff members.
- Preparation of up to 9 display boards for Code Working Group and public outreach meetings.
- It is assumed that written materials provided for Code Working Group meetings will be the same as issue papers/memos and/or code drafts found in Tasks 1 and 2.
- Written materials for the three other public meetings will be based upon memos/issue papers and draft code sections included in Tasks 1 and 2.
- City responsible for meeting logistics including room arrangements, meeting notices, refreshments, and similar tasks.

**Deliverables:**

- Consultant staff attendance at up to 11 public meetings;
- Up to 9 display boards for public meetings (three boards on average per open house format meeting).

- A summary of issues and/or code amendments prepared to date for each of the 3 public open houses or meetings.

## Task 5. Code Adoption Assistance

Consultant shall attend and participate in a select number of Planning Commission, Council committee and City Council meetings in support of city adoption of Phase 1 and Phase 2 code amendments.

### **Assumptions:**

- Attendance of up to one consultant staff at up to two workshop-oriented special meeting for the Planning and Community Development Committee meetings for each phase (total of four workshop-oriented special meetings).
- Assume attendance of up to one consultant staff at up to two Planning Commission meetings per phase (four Planning Commission meetings total).
- Assume attendance of up to one consultant staff at up to two public hearings per project phase: one Planning Commission public hearing, and one City Council public hearing per project phase (for a total of four public hearings through phase 1 and 2 of project).
- It is assumed that city staff will take the lead in adoption process for the City Development Code project, and that consultant staff will be present to either present an issue or issues, or to support city staff in answering Council questions.
- Assume that materials provided for Council Committee or City Council meetings will be the same provided in Tasks 1 and 2.

### **Deliverables:**

- Up to one consultant staff member's attendance at up to four City Council committee workshop-oriented special meetings during the life of the project.
- Up to one consultant staff member's attendance at up to four Planning Commission meetings during the life of the project.
- Up to one consultant staff member's attendance at up to two Planning Commission public hearings during the life of the project.
- Up to one consultant staff member's attendance at up to two City Council public hearings during the life of the project.

## Task 6. Engineering Standards Update Coordination

Consultant will coordinate the Development Code Update effort with the parallel process of updating City of Auburn Engineering Design Standards. This effort will involve meetings with City Planning & Community Development and Public Works staff, as well as meetings with City's engineering consultant staff to coordinate efforts on these update projects.

### Assumptions:

- Up to three meetings by up to two consultant staff over phase 1 and 2 of the project to identify potential areas of overlap, review written materials for both update efforts, and ensure that the two efforts are mutually supportive and not duplicating efforts.
- Assumes consultant staff review and comment on up to two Public Works Design Standards deliverables and/or other written materials submitted for the engineering design standards related to the Development Code Update project.

### Deliverables:

- Up to three meetings by two consultant staff related to proposed revision to engineering design standards related to the Development Code Update project.
- Review and written comment on up to two engineering design standards related deliverables associated with the Development Code Update project.

## Task 7. Project Management

The purpose of this task is the coordination of Auburn Development Code Update efforts, accurate and timely recording of efforts in monthly progress reports and billing invoices, and associated time and effort to work with city staff and internal and external stakeholders in moving the project forward. The goal of this task is to minimize disruptions to project schedule based upon unforeseen factors and miscommunication.

### Assumptions

- A weekly project progress conference call for up to 2 consultant staff over the course of a 40-week period.
- Preparation of monthly progress reports and invoices that document efforts expended to date and provide assessments of efforts upcoming within the next month, as well as identifying any upcoming issues or problems in accordance with City's contracting procedures.
- Assumes management of schedule to track changes in project, with a monthly schedule update assumed for budget purposes.

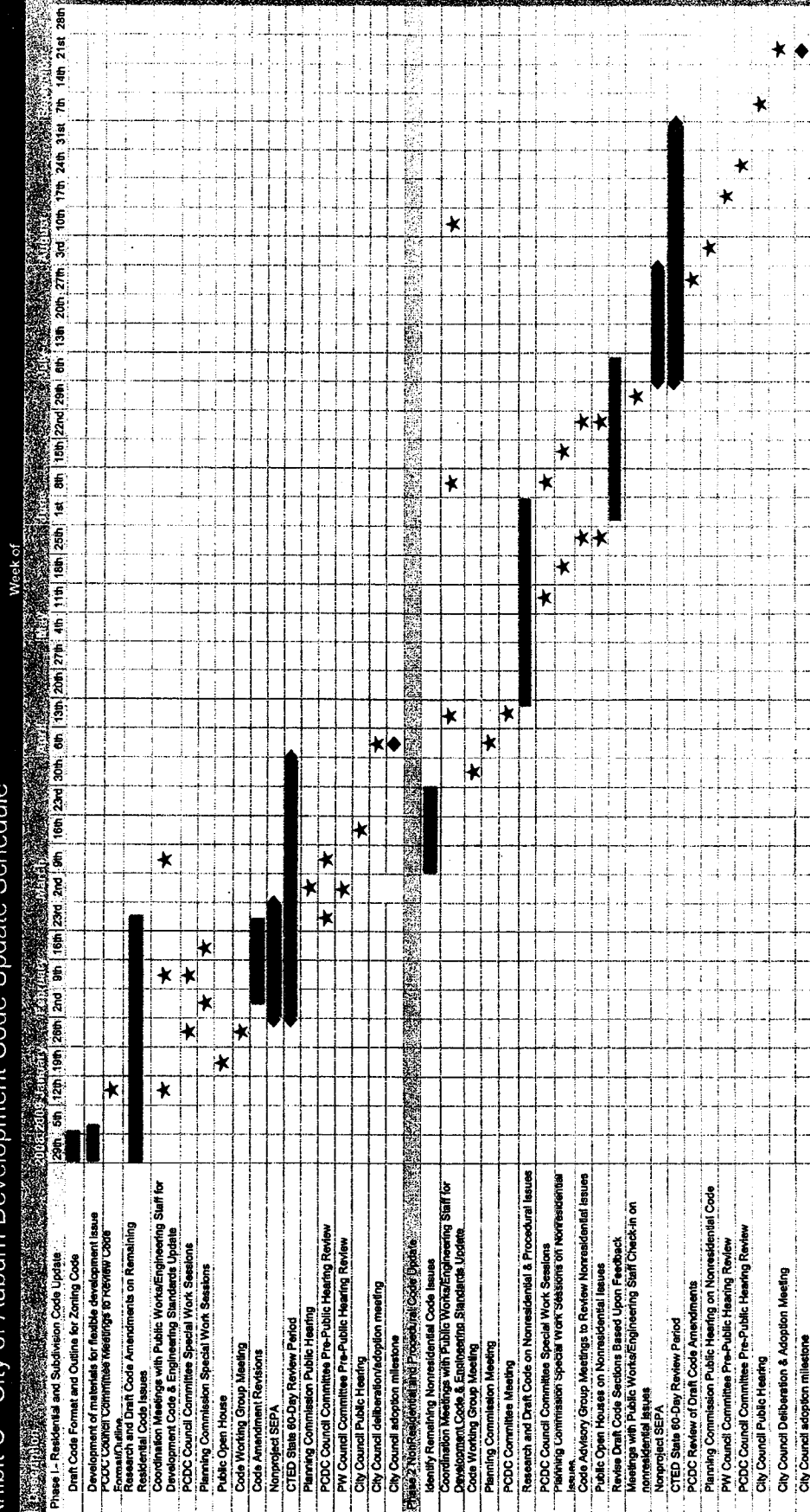
- Coordination with internal consultant staff assigned to work on various issues and materials being provided to the City.

**Deliverables**

- Monthly progress reports and invoices.
- For budget purposes, assume a monthly update to schedule.

[illegible]

# Exhibit C - City of Auburn Development Code Update Schedule



Note: This schedule only identifies key dates and meetings. Additional Council Committee briefings will occur throughout the process on an as-needed basis to keep Councilmembers advised of progress of the Code Update.

**AMENDMENT #1 TO AGREEMENT NO. AG-C-347 BETWEEN  
THE CITY OF AUBURN AND ICF JONES & STOKES ASSOCIATES, INC.  
RELATING TO THE AUBURN CODE UPDATE PROJECT**

**THIS AMENDMENT** is made and entered into this 29<sup>th</sup> day of December, 2008, by and between the CITY OF AUBURN, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and ICF JONES & STOKES ASSOCIATES, INC. (hereinafter referred to as the "CONSULTANT"), as an Amendment to the Agreement between the parties for AG-C-347 executed on the 24<sup>th</sup> day of November 2008.

The changes to the agreement are described as follows:

1. **CONTRACT TERM:** The term of the Agreement for Professional Services is extended to February 15, 2009.
2. **SCOPE OF WORK:** There is no change in the scope of work.
3. **COMPENSATION:** There is no change to the amount authorized in the original agreement.

**REMAINING TERMS UNCHANGED:** That all other provisions of the Agreement between the parties for AG-C-347 executed on the 24th day of November 2008, shall remain unchanged, and in full force and effect.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the day and year first above written.

**ICF JONES & STOKES ASSOCIATES, INC.**

By: \_\_\_\_\_  
Authorized signature

ATTEST (Optional):

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Approved as to form (Optional):

\_\_\_\_\_  
Attorney for (Other Party)

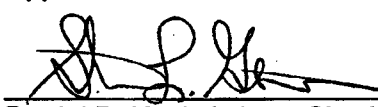
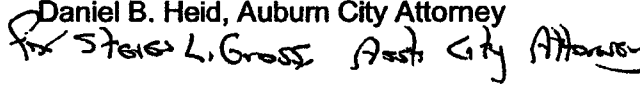
**CITY OF AUBURN**

  
Peter B. Lewis, Mayor

ATTEST:

  
Danielle E. Daskam, Auburn City Clerk

Approved as to form:

  
Daniel B. Heid, Auburn City Attorney  
 Steven L. Gross, Asst. City Attorney

**AGREEMENT FOR PROFESSIONAL SERVICES  
AG-C-347**

THIS AGREEMENT made and entered into by and between the **CITY OF AUBURN**, a Municipal Corporation in King County, Washington, hereinafter referred to as "**CITY**" and **Jones & Stokes Associates, Inc.** whose address is 710 2<sup>nd</sup> Avenue, Suite 550, Seattle, Washington, 98104, hereinafter referred to as "**CONSULTANT**."

In consideration of the covenants and conditions of this Agreement, the parties hereby agree as follows:

**1. SCOPE OF WORK.**

See Exhibit A, which is attached hereto and by this reference made a part of this Agreement.

**2. TERM.**

The **CONSULTANT** shall not begin any work under this Agreement until authorized in writing by the **CITY**. All work under this Agreement shall be completed by **December 31, 2008**.

The established completion time shall not be extended because of any delays attributable to the **CONSULTANT**, but may be extended by the **CITY** in the event of a delay attributable to the **CITY**, or because of unavoidable delays beyond the control of the **CONSULTANT**. A prior supplemental Agreement issued by the **CITY** is required to extend the established completion time.

**3. COMPENSATION.**

Compensation will be on a time and material basis, not to exceed **\$24,740**. Costs will be based on Exhibit A, which is attached hereto and by this reference made a part of this Agreement. Consultant invoices shall provide such information and be of a form substantially similar as that shown in Exhibit B. In the event services are required



beyond those specified in the Scope of Work, and not included in the compensation listed in this Agreement, a contract modification shall be negotiated and approved by the CITY prior to any effort being expended on such services.

**4. SUBCONTRACTING**

The CITY permits subcontracts for those items of work necessary for the completion of the project. The CONSULTANT shall not subcontract for the performance of any work under this AGREEMENT without prior written permission of the CITY. No permission for subcontracting shall create, between the CITY and subcontractor, any contractor or any other relationship.

Compensation for any subconsultant work is included in Section 3 of this AGREEMENT and all reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the subconsultant shall be substantiated in the same manner as outlined in Section 3. All subcontracts exceeding \$10,000 in cost shall contain all applicable provisions of this AGREEMENT.

**5. RESPONSIBILITY OF CONSULTANT.**

The CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all studies, analysis, designs, drawings, specifications, reports and other services performed by the CONSULTANT under this Agreement. The CONSULTANT shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in its plans, designs, drawings, specifications, reports and other services required. The CONSULTANT shall perform its services to conform to generally-accepted professional planning standards and the requirements of the CITY.

Any approval by the CITY under this Agreement shall not in any way relieve the CONSULTANT of responsibility for the technical accuracy and adequacy of its services.

Except as otherwise provided herein, neither the CITY'S review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this AGREEMENT or of any cause of action arising out of the performance of this AGREEMENT to the full extent of the law.

**6. INDEMNIFICATION/HOLD HARMLESS.**

The CONSULTANT shall defend, indemnify and hold the CITY, its officers, officials, and employees harmless from and shall process and defend at its own expense any and all claims, injuries, damages, losses, or suits, including attorney fees or equity arising in whole or in part from the acts, errors or omissions of the CONSULTANT in performance of this Agreement, or the CONSULTANT'S negligence or breach of any of its obligations under this Agreement; provided that nothing herein shall require the CONSULTANT to indemnify the CITY against and hold harmless the CITY from claims, demands or suits based solely upon the sole negligence of the CITY, its officers, officials, volunteers, and employees, and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees and (b) the CITY, its officers, officials, volunteers, or employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the CITY of defending such claims and suits, etc., shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees. The provisions of this section shall survive the expiration or termination of this Agreement.

**7. INDEPENDENT CONTRACTOR/ASSIGNMENT.**

The parties agree and understand that the CONSULTANT is an independent contractor and not the agent or employee of the CITY and that no liability shall attach to the CITY by reason of entering into this Agreement except as otherwise provided herein. The parties agree that this Agreement may not be assigned in whole or in part without the written consent of the CITY.

**8. INSURANCE.**

CONSULTANT shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

CONSULTANT'S maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the CONSULTANT to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

CONSULTANT shall obtain insurance of the types and in the amounts described below:

- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles, with a minimum combined single limit for bodily injury and property damage of \$1,000,000. per accident. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations,

independent contractors, and personal injury and advertising injury, with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

The CITY, shall be named as an insured under the CONSULTANT'S Commercial General Liability insurance policy with respect to the work performed for the CITY using the applicable ISO Additional Insured endorsement or equivalent.

- c. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- d. Professional Liability insurance appropriate to the CONSULTANT'S profession, with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

a. The CONSULTANT'S insurance coverage shall be primary insurance as respects the CITY. Any insurance, self insurance or insurance pool coverage maintained by the CITY, its officials, employees or agents shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

b. The CONSULTANT'S insurance shall be endorsed to state that coverage shall not be cancelled by either party except after thirty (30) days prior written notice has been given to the CITY by certified mail, return receipt requested.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

The CONSULTANT shall furnish the City with original certificates of insurance and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance coverage required by this section, before commencement of the work. The CITY reserves the right to require that complete, certified copies of all required insurance policies be submitted to the CITY at any time. The CITY will pay no progress payments under Section 3 until the CONSULTANT has fully complied with this section.

**9. NONDISCRIMINATION.**

The CONSULTANT may not discriminate regarding any services or activities to which this Agreement may apply directly or through contractual, hiring, or other arrangements on the grounds of race, color, creed, religion, national origin, sex, age, or where there is the presence of any sensory, mental or physical handicap.

**10. OWNERSHIP OF RECORDS AND DOCUMENTS.**

The CONSULTANT agrees that any and all drawings, computer discs, documents, records, books, specifications, reports, estimates, summaries and such other information and materials as the CONSULTANT may have accumulated, prepared or obtained as part of providing services under the terms of this Agreement by the CONSULTANT, shall belong to and shall remain the property of the CITY OF AUBURN. In addition, the CONSULTANT agrees to maintain all books and records relating to its operation and concerning this Agreement for a period of six (6) years following the date that this Agreement is expired or otherwise terminated. The CONSULTANT further agrees that the CITY may inspect any and all documents held by the CONSULTANT and relating to this Agreement upon good cause at any reasonable time within the six (6) year period. The CONSULTANT also agrees to provide to the CITY, at the CITY'S request, the originals of all drawings, documents, and items specified in this Section and

information compiled in providing services to the CITY under the terms of this Agreement.

**11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY COVERED TRANSACTIONS.**

The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph "(b)" of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**12. TERMINATION OF AGREEMENT.**

This Agreement may be terminated by either party upon twenty (20) days written notice to the other party, and based upon any cause. In the event of termination due to the fault of other(s) than the CONSULTANT, the CONSULTANT shall be paid by the CITY for services performed to the date of termination.

Upon receipt of a termination notice under the above paragraph, the CONSULTANT shall (1) promptly discontinue all services affected as directed by the written notice, and (2) deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as the CONSULTANT may have accumulated, prepared or obtained in performing this Agreement, whether completed or in process.

**13. GENERAL PROVISIONS.**

13.1. This Agreement shall be governed by the laws, regulations and ordinances of the City of Auburn, the State of Washington, King County, and where applicable, Federal laws.

13.2. All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach hereof, except with respect to claims which have been waived, will be decided by a court of competent jurisdiction in King County, Washington. Pending final decision of a dispute hereunder, the CONSULTANT and the CITY shall proceed diligently with the performance of the services and obligations herein.

13.3. In the event that any dispute or conflict arises between the parties while this Agreement is in effect, the CONSULTANT agrees that, notwithstanding such dispute or conflict, the CONSULTANT shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.

13.4. The CITY and the CONSULTANT respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement with respect to all covenants to this Agreement.

13.5. This Agreement represents the entire and integrated Agreement between the CITY and the CONSULTANT and supersedes all prior negotiations, representations or agreements either oral or written. This Agreement may be amended only by written instrument signed by both the CITY and the CONSULTANT.

13.6. Should it become necessary to enforce any term or obligation of this Agreement, then all costs of enforcement including reasonable attorney's fees and expenses and court costs shall be paid to the substantially prevailing party.

13.7. The CONSULTANT agrees to comply with all local, state and federal laws applicable to its performance as of the date of this Agreement.

13.8. If any provision of this Agreement is invalid or unenforceable, the remaining provisions shall remain in force and effect.

13.9. This Agreement shall be administered by Deborah Munkberg on behalf of the CONSULTANT, and by the Mayor of the CITY, or designee, on behalf of the CITY. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

**City of Auburn**  
Kevin Snyder  
25 West Main Street  
Auburn WA 98001  
Phone: (253) 931-3090  
Fax: (253) 804-3114  
Email: ksnyder@auburnwa.gov

**Jones & Stokes Associates, Inc.**  
Deborah Munkberg  
710 Second Avenue, Suite 550  
Seattle, WA 98104  
Phone: (206) 801-2800  
Fax: (206) 801-2899  
Email: dmunkberg@jsanet.com



13.10. All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be delivered in person or deposited in the United States mail, postage prepaid. Any such delivery shall be deemed to have been duly given if mailed by certified mail, return receipt requested, and addressed to the address for the party set forth in 13.9 or if to such other person designated by a party to receive such notice. It is provided, however, that mailing such notices or communications by certified mail, return receipt requested is an option, not a requirement, unless specifically demanded or otherwise agreed.

Any party may change its address by giving notice in writing, stating the new address, to any other party, all pursuant to the procedure set forth in this section of the Agreement.

13.11. This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

CITY OF AUBURN




Peter B. Lewis, Mayor

Date NOV 24 2008


ATTEST:

  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
Daniel B. Heid, City Attorney

**Jones & Stokes Associates, Inc.**

BY:   
Title: Vice President  
Federal Tax ID # 94-1730361

## EXHIBIT A

### City of Auburn Residential Code Amendments Scope of Services and Budget

The City of Auburn (CITY) has requested assistance from Jones & Stokes Associates, Inc. (CONSULTANT) to support planning staff as an extension of staff regarding policy and code topic areas for the update of residential sections of the City's Zoning and Subdivision Codes. This Scope of Services identifies the Consultant level of effort through December 31, 2008.

The Consultant will provide general planning and land use consultation services at the request of and as needed by the City based on mutually agreed timetables and levels of effort. It is anticipated that the services under this Agreement shall be rendered in connection with the Client's Residential Code Update Phase 1, and will include, but not necessarily be limited to, the following items:

- Client code evaluation;
- Example jurisdiction code research;
- Code update options analysis; and
- Support at staff, citizen, or decision-maker meetings.

#### Staff, Billing Rates and Cost

The scope of services will be completed on a time and materials basis in accordance with the following estimate.

Position	Billing Rate \$ / Hour	Estimated Availability November 17 to December 31 (Hours)	Budgeted Fee
Lisa Grueter Senior Planner	\$140	38	\$ 5,320
Gil Cerise Senior Planner	\$120	90	\$ 10,800
Urban Planner*	\$105	36	\$ 3,780
Deborah Munkberg Branch Leader**	\$185	24	\$ 4,440
Expenses: Travel, reproductions, postage, deliver, and similar	At cost		\$400
<b>Total</b>			<b>\$24,740</b>

#### Notes

\* Staff to be used as needed in terms of research assistance following CITY approval.

\*\*Staff to be used to back up or support senior planners, such as at meetings if needed following CITY approval.

## **CONSULTANT INVOICES**

CONSULTANT invoices should contain the following information:

- On CONSULTANT letterhead.
- An accompanying narrative progress report stating the status of each task. This should include major activities performed and items completed during the billing period and total percentage of project completion along with funding status. Any important issues, concerns, or problems/obstacles encountered should also be noted.
- Internal invoice number and/or sequential numeric number (i.e.: progress payment # 10).
- Invoice date.
- Period of time invoice covers.
- Consultant Agreement # (i.e.: AG-C-347).
- CITY'S project manager listed.
- The hour(s) per person broken down by task(s) (attach timesheets, spreadsheet detailing timesheets, or some other form of proof) along with type of work done (i.e.: design, right-of-way, or construction) or task order number.
- Direct salary (base salaries)
- Indirect salary (benefits)
- Direct non-salary (i.e.: mileage, reproduction fees (i.e.: printing, copying), communication fees (i.e.: telephone), supplies, computer charges, subconsultants), indirect non-salary (overhead). The CITY does not pay for CONSULTANT meals unless part of a task requires travel outside of the greater Seattle, Tacoma, and Everett area. These costs are to be broken down and backup information is to be attached to invoice. Project managers are to inform CONSULTANTS as to what is required for break down information and if backup information is to be attached. Break out the same for subconsultant charges.
- Previous and remaining base contract amounts left in each task and total contract – total authorized amount (bottom line figure). Add amendments to this base contract amount for total authorized amount.
- Percentage of work completed to date compared to total amount of work (if required by the project manager).
- Invoices for previous year are due by January 15<sup>th</sup>.

## SAMPLE INVOICE

City of Auburn  
25 West Main  
Auburn WA 98001  
Attn: Chris Andersen (Project Manager)  
Agency Agreement #: AG-C-347

Invoice #: 1234  
Progress Payment #: 2  
Invoice Date: February 10, 2002  
Project Name: Code Update Project

Engineering Services performed during the period of: January 2002

### **JONES & STOKES ASSOCIATES, INC.**

Personnel	Hours	Hourly Rate	Amount
Mike Jones, Principal Planner	1	\$ 125.00	\$ 125.00
Carla Maker, Architect	2	\$ 72.00	\$ 144.00
Joe Smith, Word Processing	10	\$ 48.00	\$ 480.00
<b>Consultant Personnel Subtotal</b>			<b>\$ 749.00</b>

Expenses (see attached documentation)	Amount
Mike Jones, Principal Planner	\$ 7.59
Carla Maker, Architect	\$ 33.00
Joe Smith, Word Processing	\$ 31.90
<b>Consultant Expenses Subtotal</b>	<b>\$ 72.49</b>

**Consultant Total:** **\$ 821.49**

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**TOTAL DUE THIS INVOICE** **\$ 821.49**

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### **CONTRACT BREAKDOWN**

Task	Amount Authorized	Prior Invoiced	This Invoice	Total Invoiced To Date	% Expended	% Complete	Amount Remaining
Original Contract	\$ 22,000.00	\$ 1,025.00	\$ 821.49	\$ 1,846.49	10%	15%	\$ 20,153.51
Amendment 1	\$ 2,500.00	0.00	\$ 0.00	\$ 0.00	0%	0%	\$ 2,500.00
<b>TOTAL</b>	<b>\$ 24,500.00</b>	<b>\$ 1,025.00</b>	<b>\$ 821.49</b>	<b>\$ 1,846.49</b>	<b>8%</b>	<b>10%</b>	<b>\$ 22,653.51</b>